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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 30TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR.JUSTICE P.VISHWANATHA SHETTY

Writ Petition No.24740/1997

Sri L.Sampangi
S/o Lakshmaiah, major,
residing at Bagalur village,
Jala Hobli,
Bangalore North Taluk,
Bangalore Urban District.
.. Petitioner

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(By M/s Mylaraiah Associates)

Vs.

1. The Special Deputy Commis-
sioner,
Bangalore Urban District,
Krishi Bhavan,
Bangalore-2.
2. The Tahsildar,
Bangalore North Taluk,
Bangalore Urban District.
.. Respondents

(By Sri B.E.Kotian,
Government Advocate)

Writ Petition filed under Articles 226 and 227 of the Constitution of India with an affidavit praying for the quashing of the order dated 25-4-1997 passed by the first respondent vide Annexure-E, etc.

This petition coming on for orders on I.A.II for stay before Court this day, the Court made the following:

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O R D E R

Though this petition is listed for orders, with the consent of learned Counsel appearing for the parties, it is taken up for final hearing and disposed of by this order.

2. The petitioner, in this petition, has called in question the correctness of the order dated 25th of April 1997, a copy of which has been produced as Annexure-E, passed by the first respondent directing deletion of the name of the petitioner from the revenue records in respect of the land measuring 2 acres in Survey No.200 of Makenahally village on the ground that the said entry is a fraudulent entry.

3. It is the case of the petitioner that since the petitioner was in unauthorised occupation of the land in question for a period of more than 12 years prior to the year 1980, the said land came to be granted to him by the second respondent by means of order dated 31st of December 1991. A copy of the Grant Certificate issued to the



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petitioner has been produced as Annexure-A. It is his further case that subsequent to the said grant of land, after conducting necessary enquiry, the Revenue Authorities have entered the name of the petitioner in the revenue records in respect of the land in question for the years 1983-84 to 1994-95. Copies of the revenue records wherein the petitioner's name has been entered, have been produced as Annexures-C1 to C3. It is also his case that pursuant to the notice issued by the first respondent proposing to exercise his power under sub-section (3) of Section 136 of the Karnataka Land Revenue Act, 1964 (hereinafter referred to as "the Act") for setting aside the entries made in the revenue records, though the petitioner had filed his statement of objections setting out his claim in respect of the land in question, the first respondent, without conducting any enquiry as required under law and also without giving an opportunity to put forward his case, has passed the impugned order Annexure-E.

4. Sri B.E.Kotian, learned Government

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Advocate, tried to support the impugned order by contending that the first respondent has passed the impugned order after giving a show cause notice to the petitioner to file his objections to the proposed action, and **✓he has passed the impugned order;** after looking into the records, and, therefore, this is not a fit case for interference by this Court in exercise of its writ jurisdiction under Articles 226 and 227 of the Constitution of India.

5. I am of the view that having regard to the facts and circumstances of the case, the petitioner is entitled to succeed in this petition. Though the petitioner has specifically stated that after filing of the objections, a copy of which has been produced as Annexure-D, no enquiry has been conducted and the petitioner has not been heard, the said statement has not been disputed by the respondents by filing statement of objections. Further, it is the case of the petitioner that the land in question has been granted to him on 31st of December 1991. The petitioner has produced the copy of the Grant

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Certificate as Annexure-A to this petition. The entries in the Revenue Records produced as Annexures-C1 to C3 also prima-facie show that the petitioner has continued to be in possession of the land in question ever since the year 1983-84. All these matters have been completely overlooked by the first respondent while passing the impugned order. The first respondent has proceeded on the basis of the records made available to him by the second respondent-Tahsildar. Since the petitioner had asserted that the land in question was granted to him, the petitioner should have been heard in the matter and an opportunity should have been afforded to him to put forward his claim, after he filed his objections.

6. Therefore, in the light of the discussion made above, I am of the view that it would be in the interest of justice to quash the impugned order and remit the matter for fresh enquiry to the first respondent.

7. Accordingly, the impugned order Annexure-D dated 25th of April 1997 passed by

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the first respondent is hereby quashed and the matter is remitted to the first respondent for fresh enquiry after giving an opportunity to the petitioner.

8. All the contentions on merits of the claim of the petitioner and also that of the Authorities, are left open to be considered by the first respondent in accordance with law.

9. The first respondent shall pass fresh orders as expeditiously as possible and at any event of the matter, not later than 9 months from the date of receipt of a copy of this order.

10. In terms stated above, this petition is allowed and disposed of. Rule issued is made absolute.

11. Sri B.E.Kotian, learned Government Advocate, is permitted to file his memo of appearance within four weeks from to-day.

Sd/-
JUDGE

